

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:10-CV-139-DCK**

ANGELA SPAIN,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
CELLCO PARTNERSHIP d/b/a)	
VERIZON WIRELESS,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on Defendants Verizon Communications, Inc. and Cellco Partnership d/b/a Verizon Wireless’ “Motion to Dismiss Amended Complaint” (Document No. 19) filed August 12, 2010. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and this motion is ripe for disposition. Having fully considered the record, the motion, and applicable authority, the undersigned will deny the motion as moot.

After Defendants filed the instant motion to dismiss, the parties filed a “Joint Stipulation Of Partial Dismissal With Prejudice” (Document No. 21) on August 26, 2010, dismissing Verizon Communications, Inc. from the action; dismissing some of Plaintiff’s claims; and consenting to the filing of an Amended Complaint. The “Plaintiff’s Second Amended Complaint” (Document No. 22) was filed that same day. Defendant Cellco Partnership d/b/a Verizon Wireless filed a “Motion To Dismiss Second Amended Complaint” (Document No. 23) on September 15, 2010 and “Plaintiff’s Response In Opposition...” (Document No. 25) was filed on September 29, 2010. Defendant’s reply is due on or about October 12, 2010. A response was never filed to Defendants’ “Motion to Dismiss Amended Complaint” (Document No. 19).

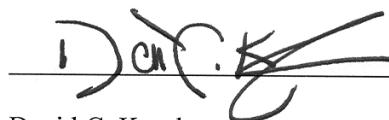
It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot. Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (“The general rule is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect); Colin v. Marconi Commerce Systems Employees' Retirement Plan, 335 F.Supp.2d 590, 614 (M.D.N.C. 2004) (“Earlier motions made by Defendants were filed prior to and have been rendered moot by Plaintiffs' filing of the Second Amended Complaint); Turner v. Kight, 192 F.Supp. 2d 391, 397 (D.Md. 2002) (denying as moot motions to dismiss original complaint on grounds that amended complaint superseded original complaint).

Based on the foregoing, “Plaintiff’s Second Amended Complaint” (Document No. 22) supersedes “Plaintiff’s First Amended Complaint” (Document No. 16).

IT IS, THEREFORE, ORDERED that Defendants’ “Motion to Dismiss Amended Complaint” (Document No. 19) is **DENIED AS MOOT**.

SO ORDERED.

Signed: September 30, 2010



David C. Keesler
United States Magistrate Judge
